

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORKAxion Power International, Inc., William and Tracy Ahearn, h/wSally Fonner, and James Smith, M.D.*(In the space above enter the full name(s) of the plaintiff(s)/petitioner(s).)*07 Civ. 11493 (RS) (AJP)

- against -


## NOTICE OF MOTION

Mercatus & Partners, Ltd., Cari Masi, a/k/a Cary Masi,Stephano Cevolo, Banca MB S.p.A., and Dwight Parscale*(In the space above enter the full name(s) of the defendant(s)/respondent(s).)*

**PLEASE TAKE NOTICE** that upon the annexed affirmation of Alan S. Fellheimer,  
 affirmed on May 6, 2008, and upon the exhibits attached thereto *(delete if no*  
*(date)*  
*exhibits)*, the accompanying Memorandum of Law in support of this motion *(delete if there is no*  
*Memorandum of Law)*, and the pleadings herein, plaintiff/defendant will move this Court, before  
Robert W. Sweet, United States District/Magistrate Judge, for an order  
*(Judge's name)* *(circle one)*  
 pursuant to Rule 15(a) of the Federal Rules of Civil Procedure granting *(state what you want the*  
*Judge to order):* Leave to file an amended complaint as in the attached proposed amended complaint.

**I declare under penalty of perjury that the foregoing is true and correct.**

Dated: Philadelphia, PA  
*(city)* *(state)*  
May 6, 2008  
*(month)* *(day)* *(year)*

Signature   
 Address Alan Fellheimer  
 44 Wall Street, 12th Floor, New York, NY 10005  
 Telephone Number (212) 461-7142  
 Fax Number *(if you have one)* (212) 461-2223

Digitally signed by Alan Fellheimer  
 DN: cn=Alan Fellheimer, o=ou, email=alfellheimer@fellheimer.net, c=US  
 Date: 2008.05.08 17:16:13 -0400